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1 next day, and I'm fairly certain -- I think we  
2 would send a file daily. So I think we did our  
3 part within 24 hours and then however long Quest  
4 or Global Crossing or the LEC took could be up to  
5 a full month.

6 Q And you would know that the change  
7 itself had actually taken place when the customer  
8 in question made a long-distance call on your  
9 facilities or with facilities you had, I guess,  
10 purchased from Quest or Global Crossing

11 A. A call record would show up. Also,  
12 our carrier would send out notification on  
13 something called TCI code or some acronym there,  
14 where they would send us somehow electronically  
15 codes of what was going on -- if the customers  
16 were switched to our service. And I think  
17 somehow Shalanda could add up how many of those  
18 people are switched to us on a weekly basis, and  
19 she keeps statistics that way.

20 Q And then you in turn would send that  
21 information to USBI

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1 A. No, we would only send USBI billing  
2 information.

3 Q Billing information --

4 A. Right.

5 Q -- that this particular phone number  
6 should be billed or whatever?

7 A. Service fees, this call, that call.

8 Q Now, did there come a time when you  
9 became aware that Vermont -- the Vermont  
10 Department of Public Service filed a petition  
11 with the Vermont Public Service Board requesting  
12 an investigation into the business practices of  
13 Business Options, Inc.?

14 A. I'm sure there was, but I don't know  
15 the specific date or when it was.

16 Q What was your understanding as to why  
17 the Vermont Department of Public Service filed  
18 the petition?

19 A. I don't know. Good question. I don't  
20 know.

21 Q Was this the first event?

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1 MR HAWA. Do you have a copy of it?

2 MR. SHOOK I think I have a copy of  
3 it.

4 MR HAWA Okay.

5 MR SHOOK. Let's take a short break.

6 (A short break was taken.)

7 BY MR SHOOK All right.

8 Q I had asked the question before, but  
9 did there come a time when you became aware that  
10 the Vermont Department of Public Service filed a  
11 petition with the Vermont Public Service Board  
12 requesting an investigation into the business  
13 practices of Business Options, Inc.? And you had  
14 indicated that you were not really all that clear  
15 that such had occurred.

16 MR HAWA Did I give you a copy of  
17 the stipulation?

18 WITNESS Yes, you did.

19 BY MR SHOOK

20 Q Perhaps to help put this in time frame  
21 and maybe that will assist your recollection, the

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1 information that we have is that the petition  
2 that I was referring to was filed on June 13,  
3 2002

4 A. Yeah.

5 Q So about a year and a month ago

6 A. Okay. Up until Mr. Brzycki's  
7 departure, he was communicating with Vermont, and  
8 he would occasionally give me an update on  
9 anything that was problematic in Vermont.

10 Anyway, once he departed, I had to get more in  
11 tune. There was a note in our file from Sara  
12 Hoffman. It said "Dear Mr. Kintzel. Here is the  
13 board's order and stipulation. If you have any  
14 questions, feel free to call me". This was  
15 written on November 26, 2002. I think this is  
16 the time that it really came onto my plate. Up  
17 until Mr. Brzycki left, which was the end of  
18 October, he would have been the one communicating  
19 with Vermont. And he would be sending me a note  
20 here and there on, "Here's what is going on."  
21 But then during that time, my brother was on sick

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1 leave, so I was not only trying to work with  
2 external, but I was working with internal. I was  
3 preparing for Mr. Brzycki's departure. My  
4 biggest problem at that point was sorting through  
5 this EEOC crisis that we also had going on.  
6 Q That was the crisis of the moment?  
7 A. That was the crisis, right. So, Mr.  
8 Brzycki sent me a note on Vermont, which we had  
9 200 customers, I think, out of nearly 50,000 -- a  
10 very small percentage. So it was like, "All  
11 right, thank's for telling me." Back to the  
12 crisis. Once he was gone, then it became, "Okay,  
13 Miss Hoffman, now what is this, what have we  
14 entered into?" I guess this would be the date  
15 that I really became aware of it. I may have  
16 known of it before, but this is November 26, to  
17 answer your question in a long-winded way.  
18 Q Okay. So in terms of really focusing  
19 on the fact that Business Options had a problem  
20 of some kind with the state of Vermont, you're  
21 indicating that it wasn't until November of

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1 2002 -- late November of 2002 that you were  
2 really focused on what the problem was?  
3 A. Right. By that time, it was really  
4 too late. We had already signed a stipulation to  
5 depart the state.  
6 Q And also what you were saying was that  
7 because there was roughly 200 customers involved,  
8 that it didn't present the type of crisis that  
9 might have otherwise led to your greater  
10 involvement. So, basically the Vermont  
11 situation, you let Mr. Brzycki handle?  
12 A. Yes. Because, really, it was his job  
13 to handle things like that. Because it's like,  
14 "Here's the project for you, Bill." It was  
15 anything that came in like this -- that was what  
16 he was doing, especially since he had been  
17 demoted from vice president of administration.  
18 He was only doing regulatory affairs.  
19 Q So with respect to the final  
20 stipulation or resolution with all outstanding  
21 matters --

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1 A. Yes.  
2 Q -- that was signed by Mr. Brzycki that  
3 was signed on September 12, would I be accurate  
4 in understanding that Mr. Brzycki had the  
5 authority to sign on behalf of Business Options  
6 at that time?  
7 A. Yes, he was an officer of the company.  
8 Q An officer in the managerial sense, if  
9 you will, that he had an area of responsibility  
10 and this fell within his area of responsibility?  
11 A. Yes.  
12 Q He wasn't a corporate officer, though;  
13 was he, from the standpoint of --  
14 A. Yes, he was.  
15 Q Oh, he was?  
16 A. Yes. He was secretary/treasurer of  
17 the company.  
18 Q Oh, okay.  
19 A. That's my recollection. I would --  
20 MR HAWA He was the vice president?  
21 Or, no, not at that time.

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1 A. He was still listed as a corporate  
2 officer. I mean, this was what his duty was. I  
3 could go back to the corporate books, but that's  
4 my recollection -- that he was  
5 secretary/treasurer and had the authority to do  
6 that. And I would guess that he probably showed  
7 me the stipulation, and I probably read and just  
8 said, "Okay, fine."  
9 Q Again, with the thought being that  
10 there were so few customers involved --  
11 A. Yes.  
12 Q -- that it didn't present the kind of  
13 problem that it might have otherwise caused  
14 you --  
15 A. Yes.  
16 Q -- either greater heartburn or greater  
17 involvement?  
18 A. Right.  
19 Q Now, other than Mr. Brzycki, would he  
20 have been involved in negotiating with the state  
21 of Vermont by himself, or would there have been

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1 somebody else at Business Options who would have  
2 been involved with the process?  
3 A. It would have been totally Mr.  
4 Brzycki. And prior to signing anything, he would  
5 have run it by myself and potentially myself and  
6 Keanan. But, no, he would have totally been  
7 negotiating back and forth with Vermont.  
8 Q So you would not have been involved in  
9 negotiations with Vermont?  
10 A. No.  
11 Q And other than -- I mean, you've  
12 referenced the fax from Sara Hoffman.  
13 A. Yes.  
14 Q Was that your first contact with Sara  
15 Hoffman?  
16 A. I don't know.  
17 Q It's conceivable that you had some  
18 contact with Sara Hoffman before late November of  
19 2002 --  
20 A. Yes.  
21 Q -- that you don't remember?

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1 A. Correct.  
2 Q To your understanding, did there come  
3 a time when Business Options, Inc. stopped  
4 providing long-distance service in Vermont?  
5 A. Yes.  
6 Q And do you have any recollection as to  
7 approximately when that may have occurred?  
8 A. I believe we stopped billing our  
9 customers in March of 2002.  
10 Q Do you mean 2003?  
11 A. No, 2002.  
12 Q You stopped billing in March of 2002?  
13 A. Yes.  
14 Q So --  
15 A. We continued to service the customers,  
16 meaning we gave them long-distance, but I don't  
17 think we billed anybody after that point. Maybe  
18 it was April, but sometime in the fall -- I'm  
19 sorry -- in the spring of 2002.  
20 Q Why did you stop billing customers  
21 that early?

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1 A. I don't know. This is just my  
2 recollection; I may be incorrect. I think we  
3 were asked to, though. Your earlier question is  
4 what prompted all this. It seems to me -- and  
5 this is just from my recollection -- that we  
6 didn't file an annual report or something we were  
7 supposed to do, and that started this whole chain  
8 of events. I may be incorrect on that, but --  
9 Q What you're saying is that there was a  
10 period of time before this petition was filed  
11 that Business Options had stopped billing its  
12 customers in Vermont?  
13 A. Yes. Okay. Here it is.  
14 MR. HAWA I think you have a copy of  
15 this. It's contained in the documents.  
16 A. On May 9, a letter was sent to Billing  
17 Concepts, USBI. And at that point, we stopped  
18 billing Vermont customers.  
19 Q So what you're looking at is a letter  
20 from who to who?  
21 A. It's from Vermont to Billing Concepts.

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1 Q And Vermont is telling Billing  
2 Concepts, which is the same as USBI --  
3 A. Yes.  
4 Q -- to stop billing on behalf of  
5 Business Options?  
6 A. Yes.  
7 MR. HAWA May 9, 2002.  
8 Q Okay. When did this come to your  
9 attention? When did it come to your attention  
10 that you were providing free service to customers  
11 in Vermont?  
12 A. About a year later, since all this  
13 came out. It was eye-opening.  
14 Q I would think so.  
15 A. Yeah.  
16 MR. HAWA Well, 200 customers -- it's  
17 really not that much money.  
18 MR. SHOOK I guess that depends on  
19 how many long-- distance calls they made.  
20 A. Yeah. So your question was, when did  
21 we stop providing service. We stopped providing

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1 billing service in May, meaning that every  
2 customer that was on our service was getting free  
3 service from that point forward. Then toward the  
4 end of December, 2002 is when any customers that  
5 were left with us -- a disconnection of service  
6 letter was sent on their behalf.  
7 Q Subsequent to December of 2002, has  
8 Business Options resumed providing long-distance  
9 service to anybody in Vermont?  
10 A. Are you saying since that time?  
11 Q Right, since December of 2002.  
12 A. Not to my knowledge.  
13 Q Would that also be true of the other  
14 company names that we have mentioned --  
15 A. Yes.  
16 Q -- like Buzz Telecom --  
17 A. Yes.  
18 Q -- U.S. Bell --  
19 A. Yes.  
20 Q -- Link?  
21 A. Yes.

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1 Q You're out of Vermont.  
2 A. Yes, to the best of my knowledge.  
3 Q Now, the final stipulation that was  
4 signed off on Mr. Brzycki in September of 2002.  
5 Do you have any recollection as to approximately  
6 when it was when you first looked at this  
7 document?  
8 A. This is the stipulation.  
9 Q Right, I can show you here what I am  
10 looking at, you've got your own copy, I'm sure.  
11 A. Yea. That's the one that I had that  
12 Vermont had resend to me at the end of November,  
13 so I guess my answer would be the same as before.  
14 I may have read it when Mr. Brzycki was signing  
15 off on it; but when I really got it, was at the  
16 end of November.  
17 Q With that fax that Sara Hoffman --  
18 Sara Hoffman sent this to you by fax in November  
19 of 2002.  
20 A. Yes. That was November 26.  
21 Q Okay.

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1 A. At that point, I took over what Mr.  
2 Brzycki -- not really took over, but got more  
3 involved in what he was working on.  
4 Q Now, once the fax was sent to you in  
5 November of 2002, did you ever direct anybody to  
6 insure that the matters that were agreed to in  
7 the stipulation were in fact carried out by  
8 Business Options, Inc.  
9 A. Miss Dennie.  
10 Q Miss Dennie.  
11 A. Yes.  
12 Q There was an order that was entered by  
13 the state of Vermont Public Service Board on  
14 November 7, 2002.  
15 A. Okay. I'm looking at it.  
16 Q Could you tell us approximately when  
17 it was that you became aware that this order had  
18 been issued?  
19 MR HAWA Objection. The question  
20 has been asked and answered.  
21 Q I think I asked before about the

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1 petition, if the order was included.  
2 A. I may have misstated then. Oh, it's  
3 the same fax.  
4 Q It came in the same fax?  
5 A. Yes.  
6 Q The November 26 fax?  
7 A. Yes.  
8 Q All right. Did you read through the  
9 order?  
10 A. I believe so.  
11 Q Just so we are clear we are talking  
12 about the same thing, the order I am looking at  
13 goes on for eight pages and on page eight it  
14 bears the signatures of apparently three persons  
15 who are with the Public Service Board of Vermont.  
16 A. Yes, that's the one I'm looking at.  
17 Q And, on pages one through seven,  
18 there's all sorts of legal stuff.  
19 A. Yes.  
20 Q And at some point you read through  
21 this document and managed to stay awake?

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1 A. Yes.  
2 Q Now, I want to direct your attention  
3 to page three of the order; specifically,  
4 paragraph six  
5 A. Yes. I may have had a  
6 misunderstanding on what an order is like this.  
7 I didn't know that it was something that -- I  
8 didn't sign it -- it was an agreement that was  
9 factual and I don't know if I should have sent  
10 something over to disagree with exactly what it  
11 said. All I agreed to was the final stipulation  
12 for resolution. I guess what I've agreed to is  
13 the final stipulation. And sitting here today I  
14 don't necessarily know what this document -- what  
15 it has to do with anything.  
16 Q Well, let's see if we can figure it  
17 out together. The first six pages appear to be  
18 some tentative findings made by a hearing officer  
19 named Greg C. Favor.  
20 A. Okay.  
21 MR HAWA If you could, I think

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1 that's not responsive to what Kurtis was saying.  
2 He is saying he was aware of the finding and  
3 stipulation --  
4 MR SHOOK I understand.  
5 MR HAWA -- and the order that was  
6 ultimately issued is --  
7 MR SHOOK Right, something that he  
8 didn't agree to, and I'm not suggesting that he  
9 did.  
10 MR HAWA Fine, so I guess for our  
11 purposes we should probably compare the  
12 stipulated items in what ultimately appeared in  
13 the order.  
14 MR SHOOK Well, the stipulation came  
15 out, it was signed apparently a month and a half  
16 prior to the issuance of this order --  
17 MR HAWA Right.  
18 MR SHOOK -- and I'm just trying to  
19 get an understanding of the assertions that are  
20 made in the order and what is it that Mr. Kintzel  
21 knew about the matters referenced, if anything.

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1 MR HAWA Okay.  
2 Q And particularly focusing initially on  
3 paragraph number six, which appears on page  
4 three, there it is perhaps a way of putting this  
5 that would be most appropriate for this  
6 situation, a tentative finding or, perhaps looked  
7 at another way, an allegation that BOI had  
8 engaged -- BOI, meaning Business Options, Inc.  
9 had engaged in deceptive business practices in  
10 the marketing of its services to Vermont  
11 customers.  
12 A. Okay.  
13 Q And my question to you is, do you have  
14 any knowledge as to what it is these deceptive  
15 business practices are supposed to be?  
16 A. No.  
17 Q You do not.  
18 A. I do not.  
19 Q And moving on to paragraph seven, that  
20 paragraph reads, "BOI marketers misrepresented  
21 themselves in the purpose of the sales in order

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1 to induce Vermont consumers to switch their  
2 primary intrastate and/or interstate service  
3 providers to BOI in violation of blah-blah." Do  
4 you have any idea what it is that is being  
5 referred to here in terms of BOI marketers and  
6 what they said or didn't say.  
7 A. I do not. We did have a situation --  
8 I don't know if it was Vermont or Maine -- in  
9 which we did not break intrastate and interstate  
10 telecommunications into two separate questions on  
11 verification one being intralateral and the other  
12 interlateral. I don't know if that is what this  
13 is referring to or not, but that's the thing that  
14 comes to mind.  
15 Q Okay. And what you are thinking of  
16 there was some possible problem with the state of  
17 Maine  
18 A. It might have been Vermont. I don't  
19 know. We were switching intralateral through it,  
20 but only having interstate verified.  
21 Q Do you recall having any such problem

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1 with the state of Kansas?

2 **A. We had a situation in Kansas, but I'm**

3 **not sure what it was. I'd like to review the**

4 **documents on the Kansas before answering that.**

5 MR HAWA Let's put this in context

6 here So what we're saying here is the

7 stipulation that was entered into with Vermont,

8 which is rather straight forward and generic --

9 MR SHOOK Right.

10 MR HAWA -- bears little

11 resemblance to the order that came out. And you

12 would have thought there would have been a one

13 page letter saying -- from the board saying we

14 hereby approve the stipulation. Instead, they

15 come out with an order that bears little

16 resemblance of what was stipulated to And one

17 could only surmise that was the time period that

18 Bill Brzycki left his post.

19 MR SHOOK Right.

20 BY MR SHOOK

21 Q There are certainly a number of things

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1 that I guess are left up in the air at this

2 point. I was hoping there might be a logical

3 explanation and perhaps we will find it. But if

4 you don't know, that's fine, we'll just move on.

5 **A. Okay.**

6 MR HAWA And I guess -- Just for

7 further background, I guess we would contest at

8 some point -- I don't know through what vehicle,

9 given the timeliness, but we would contest the

10 lawfulness of this Vermont order in terms of it

11 not being what was stipulated to. An order

12 approving a stipulation that makes findings of

13 fact and conclusions of law that extend far

14 beyond the scope of what was stipulated to is

15 potentially invalid as a matter of law.

16 MR SHOOK And I'll leave that to you

17 to hash out with the state of Vermont.

18 WITNESS All right, I like that man.

19 MR SHOOK And if turns out all right

20 and if you can get it thrown out, you can get

21 your 200 customers back.

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1 WITNESS Okay.

2 MR SHOOK But we have nothing to say

3 about Vermont, one way or the other.

4 MR HAWA We don't understand it,

5 either. We really truly are trying to give you a

6 sense of this. We don't understand what happened

7 between the date he signed the stipulation saying

8 he agreed to exit their market and a month and a

9 half later having an order come out making

10 findings of fact and conclusions of law that are

11 not only in the stipulation but not even

12 referenced in the stipulation.

13 MR SHOOK No, one could say that if

14 this had been read closely at the time, it would

15 have been a most unpleasant surprise.

16 MR HAWA Right.

17 MR SHOOK But be that as it may --

18 BY MR SHOOK

19 Q I'd like to direct your attention to

20 page six of that order. It makes reference to

21 the stipulation, and it also makes reference to

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1 Business Options, Inc. will be following the

2 federal procedure set forth in Section 63.71,

3 where the process determines terminating service

4 to customers.

5 **A. Okay.**

6 Q Do you know whether anyone in Business

7 Options, Inc. had the responsibility to determine

8 what the federal procedure was for terminating

9 service to the Vermont customers?

10 **A. Well, while Mr. Brzycki was there, it**

11 **would have been his responsibility. Maybe it was**

12 **too much to ask Miss Dennie to try and figure**

13 **that out.**

14 Q I think we understand the sequence of

15 events. By the time this order reached you, Mr.

16 Brzycki had already departed.

17 **A. Yes. I would have followed up, either**

18 **myself or maybe Miss Dennie.**

19 Q Do you have any knowledge as to

20 whether or not this order was brought to Miss

21 Dennie's attention?

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1 MR HAWA I'm sorry, what was the  
2 question?  
3 MR SHOOK I was asking Mr. Kintzel  
4 whether or not he had any knowledge that the  
5 order that we have been talking about was brought  
6 to Miss Dennie's attention.  
7 **A. It was sent to her on November 25.**  
8 Q So in addition to you receiving a fax  
9 that included the order, there was a separate  
10 letter that was sent to Miss Dennie that included  
11 the order as well?  
12 **A. Yeah.**  
13 Q Now, is the letter -- What letter is  
14 it that you are referring to?  
15 MR HAWA It's the one where Vermont  
16 thanks Business Options for their cooperative  
17 efforts and decides not to pursue penalties  
18 because of their cooperation. Do you have that  
19 one?  
20 MR. SHOOK I'm not sure that we do.  
21 MR HAWA I'll show it to you.

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1 MR SHOOK I think -- I'm sure I've  
2 seen it at some point.  
3 MR HAWA This binder, I think we've  
4 copied it in its entirety, Bill. Whatever  
5 documents you need, we will be happy to provide  
6 MR SHOOK Okay I'm not sure  
7 whether or not that I've seen this before, but  
8 that's neither here nor there.  
9 MR HAWA It makes reference to --  
10 The November 26 letter makes reference to another  
11 letter that had been sent earlier to Mr. Brzycki.  
12 And that other letter, I believe, is the one  
13 referenced as attachment I, in our admissions  
14 request. It's a November 19, 2002 letter, three  
15 pages signed by Sara Hoffman, copied to Amy  
16 Dixon, who apparently also had left just about  
17 the same time  
18 MR SHOOK Yeah.  
19 BY MR SHOOK  
20 Q Now with respect to the November 19  
21 letter that was sent to Mr. Brzycki, could you

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1 tell us approximately when this letter came to  
2 your attention?  
3 **A. I don't know if I recall seeing it.**  
4 Q In the normal course of events, where  
5 would this letter have gone in terms of persons  
6 at Business Options?  
7 **A. It would have gone to corporate**  
8 **affairs, which would be to Mr. Brzycki.**  
9 Q And with his departure, it would have  
10 gone to whom?  
11 **A. It would have gone to Miss Dennie.**  
12 Q Now, is this the kind of material that  
13 Miss Dennie would have brought to your attention  
14 in order to discuss with you whatever course of  
15 action she should take?  
16 **A. I suppose she probably should have**  
17 **brought this to my attention. I don't know**  
18 **whether she did or she didn't. In hindsight, I**  
19 **over-estimated the abilities that Miss Dennie**  
20 **brought to the table when she became employed by**  
21 **our group.**

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1 Q With respect to Miss Dennie, who was  
2 involved in the hiring decision to bring her onto  
3 Business Options, Inc.?  
4 **A. I know I wanted somebody, but I did**  
5 **not do the interviewing of Miss Dennie. I don't**  
6 **know if it was our personnel department, Mr.**  
7 **Chill, or it could have been Keanan. I didn't**  
8 **interview her; I didn't know her background. It**  
9 **was communicated to me that, "Wow, this woman is**  
10 **great. She has had lots of experience, and she**  
11 **is going to be just fine." I didn't ask any**  
12 **other questions. I didn't ask to see her**  
13 **resume'. As a matter of fact, in going through**  
14 **documents this last week, I saw her resume' for**  
15 **the first time. So with the verbal build-up of**  
16 **Miss Dennie, I just thought she would settle**  
17 **right in and start taking care of all this stuff,**  
18 **just like Mr. Brzycki had -- or how I thought he**  
19 **had.**  
20 **So she could have brought it to me; I**  
21 **don't know whether she did or she didn't.**

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1 Knowing what I know today, I should have been  
2 asking to see everything that she did.  
3 Q So it would be fair to say that with  
4 respect to the November 19 letter, it was not  
5 something that you recall having seen at about  
6 that time?  
7 A. No, I don't. It's right around  
8 Thanksgiving, so I don't know. I also don't  
9 think she had the ability to grasp the  
10 significance of this compared to anything else  
11 that she was working on -- why one thing would be  
12 more important than another.  
13 Q So persons other than yourself were  
14 involved in the hiring decision of Miss Dennie?  
15 A. Yeah. What I asked for was somebody  
16 that had an accounting background. Obviously,  
17 what I wanted was a CPA for the post. What I got  
18 was somebody that was skilled in legal aspects.  
19 Q Now, I want to focus your attention on  
20 the Section 63.71 application that appeared as  
21 Attachment J to our request for our admissions.

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1 And what we show is that this document was filed  
2 at the FCC in the sense that it reached the FCC  
3 mail room on December 27, 2002.  
4 A. Okay.  
5 Q Do you know who on behalf of Business  
6 Options, Inc. prepared the application?  
7 A. Lisa Green signed it.  
8 Q Do you know whether or not Lisa Green  
9 was the person who actually authored the  
10 application?  
11 A. I don't know if it was Miss Green or  
12 Miss Dennie. From my understanding of the  
13 conversation, they had been helped out by FCC  
14 staff members in the preparation of this over a  
15 period of a couple of weeks. So Miss Green or  
16 Miss Dennie, I don't know that either of them  
17 would have the wherewithal to produce something  
18 like this. So as to who authored it, my guess  
19 would be an FCC staff member gave them everything  
20 except the signature line.  
21 Q Do you know who on behalf of Business

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1 Options, Inc. reviewed the application?  
2 A. Mr. John Mincoff was the staff person  
3 that was helping Miss Green. And it says in here  
4 in a fax to Miss Green, "Included with this fax  
5 are the two waiver orders that I spoke with  
6 Shannon about, along with an example of the 63.71  
7 application. Given the initial trouble getting  
8 this information to you, please give me a  
9 follow-up call just so I know you have received  
10 this fax." This was on 12-18. So I think Miss  
11 Dennie and Miss Green were working together on  
12 this.  
13 Q And I see that the application is  
14 signed by Miss Green. And I think you had  
15 indicated earlier that Miss Dennie was Miss  
16 Green's supervisor or manager, for the lack of a  
17 better term?  
18 A. Yes, that's correct.  
19 Q Now, other than Miss Green and Miss  
20 Dennie, was there anybody at Business Options who  
21 approved the application?

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1 A. The only person that would have would  
2 have been me. And from these dates, I was in  
3 Florida; I was at Disney World.  
4 Q So you were out of the office  
5 basically at Christmastime --  
6 A. Yeah.  
7 Q -- of 2002?  
8 A. Yes.  
9 Q Now, this will be a real test for your  
10 memory, and your wife is not here to beat you up  
11 if you are wrong -- do you remember the dates  
12 that you actually were away from the office?  
13 A. Yeah. Fairly shortly after December  
14 26, we had a baseball tournament at Disney World,  
15 and we took the whole baseball team. So I think  
16 it was on the 27th --  
17 Q Okay.  
18 A. -- 26th or 27th.  
19 Q You were home for Christmas?  
20 A. Yes.  
21 Q Now, given that this Section 63.71



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1 application was received by the FCC mail room on  
2 December 27, and it appears to have been dated  
3 December 20, 2002 --  
4 **A. Okay.**  
5 **Q** -- I take it you were still in the  
6 office at that time?  
7 **A. Let me think. What was I doing then?**  
8 **I don't know if I was or wasn't. I was not in**  
9 **Florida at that time, but that last week -- the**  
10 **kids get out of school somewhere around the 15th**  
11 **or 18th, I don't know. But it's very possible I**  
12 **was in the office, though.**  
13 **Q** Now, how did it come about that Miss  
14 Green signed the application?  
15 **A. I don't know.**  
16 **Q** Would you say that in December of 2002  
17 that Miss Green had the authority to submit such  
18 an application on behalf of Business Options,  
19 Inc.?  
20 **MR HAWA** I have to object to that.  
21 It calls for a legal conclusion. He said that

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1 Lisa Green and Shannon Dennie were responsible  
2 for making regulatory filings. And the question  
3 of whether or not she had authority to make a  
4 particular filing, I think he can answer it if  
5 it's rephrased  
6 **MR SHOOK** Well the question as posed  
7 basically deals with what authority had been  
8 delegated within Business Options, Inc. to  
9 various individuals So the context of the  
10 question is really in terms of according to how  
11 management and personnel were set up at Business  
12 Options, Inc., did Lisa Green have the authority  
13 to sign and submit such a document?  
14 **MR HAWA** So not as a legal officer  
15 of the company, did she have authority to --  
16 **MR SHOOK** Did she have authority  
17 within the realm her of responsibilities to sign  
18 such a document?  
19 **MR HAWA** Okay  
20 **WITNESS** I would not have had her --  
21 I don't think -- If I did have her, I don't think

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1 that I should have had her sign such a document.  
2 Probably Miss Dennie, again going with I thought  
3 Miss Dennie was somebody who could step right in  
4 and fill Mr. Brzycki's shoes. But to delegate  
5 that down to Miss Green, who was an \$8 an hour  
6 employee, no, I don't that think she should have  
7 been signing a document like this.  
8 **BY MR SHOOK**  
9 **Q** Yeah, I think that's probably the  
10 first for the FCC to get a document from somebody  
11 that's making \$8 an hour. Normally, they're a  
12 bit more pricey.  
13 **A. Yeah, your new wage.**  
14 **MR HAWA** I think I'm making \$8 a  
15 minute.  
16 **MR SHOOK** Yeah, we won't go there.  
17 **MR HAWA** It's on the record.  
18 **BY MR SHOOK**  
19 **Q** Would it be fair to say then that in  
20 respect to the Section 63.71 application that you  
21 have not seen it prior to its filing with the

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1 Federal Communications Commission?  
2 **A. I don't recall seeing this before.**  
3 **Q** Before it was filed? I mean, when you  
4 said "before," I'm just adding to your statement  
5 to make sure we're on the same wavelength.  
6 **A. Yeah, I was referring to today.**  
7 **Q** Oh, to today. Then I wasn't on the  
8 same wavelength.  
9 **MR HAWA** While you are looking, can  
10 I ask you a question?  
11 **MR SHOOK** Sure.  
12 **MR HAWA** How was this filed with the  
13 commission? We had a heck of a time finding  
14 this. How was this received by the commission?  
15 **MR SHOOK** I would assume from the  
16 stamp that it was sent by ordinary mail as  
17 opposed to hand delivery or courier delivery.  
18 **WITNESS** Is this the one you were  
19 asking us about?  
20 **MR HAWA** Yeah, we couldn't find it  
21 filed at the commission.

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1 WITNESS We didn't make a copy of it  
2 is what happened. Oh, and then you received it  
3 from these guys?

4 MR HAWA No. Actually, I had to  
5 pull some strings and have somebody look more  
6 deeply into this than ordinary to find it.

7 MR SHOOK Certainly what we have  
8 reflects that it was received in the FCC mail  
9 room and when I achieve genius level, I will be  
10 able to tell you what happens to documents once  
11 they get to the mail room. I'm still working on  
12 that.

13 BY MR SHOOK

14 Q In any event, let me make sure that we  
15 are on the same page here.

16 A. Okay.

17 Q In terms of the Section 63.71  
18 application, is it your testimony that you do not  
19 recall having read it prior to its filing with  
20 the Federal Communications Commission?

21 A. Correct, I don't recall reading it or

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1 seeing it. If I did, I'll recant it at a later  
2 date. But I don't recall seeing it.

3 Q And in fact, you don't recall having  
4 seen it prior to approximately when?

5 A. I don't recall seeing it before just  
6 right now. I may have seen it, but I've looked  
7 through a lot of documents over the last two  
8 months, and I don't recall seeing this one -- the  
9 application prior to today.

10 Q Have you had any conversations with  
11 Lisa Green in terms of how it was the application  
12 came to be prepared?

13 A. I asked her about it. I don't know if  
14 I had conversations with you or if you guys had  
15 conversations -- or my counselor had  
16 conversations with her. But somebody indicated  
17 to me that she got help with I thought it was the  
18 waiver. But I'm not quite sure I understand the  
19 difference between the two.

20 Q They were submitted at the same  
21 time --

1 A. Okay.

2 Q -- so it's conceivable that that's  
3 what is going on -- that you learned what you  
4 learned in that context.

5 A. Okay.

6 Q But my question is more narrow than  
7 that, and that is whether you have had  
8 conversations with Lisa Green in terms of how  
9 this document was prepared?

10 A. Specifically regarding the waiver, I  
11 believe I asked Miss Dennie maybe a month or two  
12 ago if she had ever shown this document to me  
13 prior to it being sent off. And I think at that  
14 time we also asked Lisa if she had ever shown it  
15 to me. And I believe their answer was no.

16 Q Okay.

17 A. I believe their answer was no as to  
18 the response to the waiver, not the actual  
19 application.

20 Q All right.

21 A. And I think that that's when Miss

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1 Green mentioned that she had gotten help by the  
2 FCC staff on that.

3 MR HAWA Jim, do you have a copy of  
4 the transmittal -- the fax transmittal from the  
5 FCC attaching the model waiver and the model  
6 continuous application?

7 MR SHOOK I don't have it with me,  
8 but I have seen it.

9 MR HAWA Okay.

10 BY MR SHOOK

11 Q Now, in terms of the request for  
12 waiver, so we are sure we are both talking about  
13 the same thing, that was included in our  
14 attachment J, what we had was the 63.71  
15 application, which went for five pages. And then  
16 immediately following that was a sample letter  
17 that was going to be sent to Vermont customers or  
18 had been sent, one or the other. And then the  
19 final two pages was the request for waiver, which  
20 I believe we have been talking about. That's the  
21 request for waiver that you have in mind?

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1 A. **This one here, yeah.**  
2 Q Two pages signed by Lisa Green, dated  
3 December 20, 2002?  
4 A. **Yeah.**  
5 Q So in terms in asking about the  
6 application and the statements made therein, the  
7 person we would need to focus our attention on,  
8 to your understanding, would be Lisa Green?  
9 A. **And Shannon Dennie.**  
10 Q And Shannon Dennie.  
11 A. **Yes.**  
12 Q Would there be anybody else?  
13 A. **No.**  
14 Q Likewise with the waiver? If we had  
15 questions about the waiver --  
16 A. **Yes.**  
17 Q -- again it would be Lisa Green and  
18 Shannon Dennie that we should focus on?  
19 A. **Yes.**  
20 MR SHOOK I think I'm pretty close  
21 to the end. What I'd like is five minutes to

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1 consult with my co-counsel.  
2 WITNESS Okay.  
3 (A short break was taken.)  
4 BY MR SHOOK  
5 Q We had briefly talked about the  
6 circumstances of Shannon Dennie's hiring And as  
7 I understand it from your testimony, Lisa Green  
8 was hired at about the same time as Shannon  
9 Dennie. Do you have any knowledge of the  
10 circumstances of Lisa Green's hiring?  
11 A. **Other than we knew we needed two**  
12 **people, I do not know who hired her or what her**  
13 **qualifications were. I, like with Shannon**  
14 **Dennie, just reviewed her resume' when I was**  
15 **reviewing documents within the last month.**  
16 Q And I understand from what you said,  
17 perhaps in a joking manner, Lisa Green's salary  
18 is modest?  
19 A. **Yes. As is Miss Dennie's. Our future**  
20 **plan is to bring in somebody who is more**  
21 **qualified in these matters.**

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1 Q And what is it that you know about  
2 Lisa Green's background?  
3 A. **I know that she came to us from**  
4 **K-mart, where she worked for an extended period**  
5 **of time; and before that, some other department**  
6 **store.**  
7 Q In a retail capacity?  
8 A. **Yes.**  
9 Q And what was it that she was hired to  
10 do?  
11 A. **She was hired to fill Miss Dixon's**  
12 **post, which was an assistant, a helper.**  
13 Q Now, with respect to Mr. Brzycki, you  
14 had indicated he had been with the company for a  
15 number of years.  
16 A. **Yes.**  
17 Q Could you tell us approximately when  
18 Mr. Brzycki joined Business Options?  
19 A. **The fall of 1995.**  
20 Q And I think you had also indicated  
21 that Mr. Brzycki basically worked his way up

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1 within the company to reach the stage where he  
2 was prior to his departure?  
3 A. **Yes.**  
4 Q So what was he initially hired to do?  
5 A. **Treasury functions. He had just**  
6 **graduated from Purdue University, although he**  
7 **was -- I think he was roughly 30 years old -- he**  
8 **had taken a longer path. He worked his way**  
9 **through school. So although he was a new**  
10 **graduate, he was pretty mature. We had hired him**  
11 **to help us in our treasury area of our company.**  
12 Q And did you know Mr. Brzycki prior to  
13 his having been hired with the company?  
14 A. **No.**  
15 Q Are you aware of any medical problem  
16 or medical issues concerning Mr. Brzycki in the  
17 autumn of 2002?  
18 A. **A medical problem?**  
19 Q Correct.  
20 A. **It seems that he wore some sort of a**  
21 **wrist brace. But not specifically, no.**

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1 Q There was nothing life threatening  
2 that comes to mind?  
3 A. No. Are you?  
4 Q No  
5 A. Oh, okay. It just seemed like an  
6 unusual question.  
7 Q We're full of them  
8 A. Okay.  
9 Q But in terms of a medical issue, the  
10 only thing you can think of right now is perhaps  
11 he had a brace on one of his wrists?  
12 A. Yes. Mr. Brzycki is large, so I think  
13 there may be some problems there. He --  
14 MR HAWA Don't speculate if you  
15 don't know.  
16 A. Okay. I guess I'd rather not  
17 speculate. I don't know.  
18 Q That's fine. You mentioned the wrist  
19 matter and large. We can go from there.  
20 A. Okay.  
21 Q You had also -- You indicated, though,

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1 that with respect to your brother Keanan that he  
2 had been out of the office for some period of  
3 time due to a health matter of some sort.  
4 A. Uh-huh.  
5 Q Approximately, what period of time was  
6 he actually out of the office?  
7 A. I should think about -- I think it  
8 started in July of 2001 is when he out. He was  
9 mountain climbing on Mt. Rainier. At midnight,  
10 he had hiked up to some peak, and he fell off.  
11 And it was one of those things -- I don't know,  
12 it did something to his body. Because shortly  
13 after that he -- I think it was July of 2001 and  
14 in August of 2001 he overheated in his office,  
15 and Mr. Brzycki took him to the hospital. He  
16 felt like he was having a heart attack or  
17 something. And two or three months later, I  
18 believe it was November of 2001, again he thought  
19 he was having some type of a heart problem, so we  
20 got him back to the emergency room. He stayed  
21 out of the office for nearly six months -- at

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1 least for the first six months of 2002. Then he  
2 came back part-time after that. Probably within  
3 the last six months, he has been back on his  
4 post.  
5 Q So for the last six months, whatever  
6 it was that was bothering him seems to have  
7 resolved itself?  
8 A. It has improved, but he's not certain  
9 what it was. If his heart palpitates or  
10 something -- He has always been very health  
11 conscious, has always worked out and been very  
12 fit. So anything that's not quite right, he is  
13 very aware of. So he went and did a series of  
14 tests and they never found anything, so they're  
15 not sure what it was.  
16 Q Okay. There's one final area I want  
17 to cover, and that concerns the letter of inquiry  
18 the FCC had sent to Business Options, Inc. in  
19 November of 2002 --  
20 A. Okay.  
21 Q -- that appears as Attachment L of our

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1 admissions request.  
2 A. In here, okay.  
3 Q The admissions themselves and the  
4 responses concerning that letter begin on  
5 admissions number 748, so it's toward the end.  
6 And as far as the attachment itself is concerned,  
7 it's something I don't have your response, but I  
8 can show you if it turns out that you don't have  
9 one right there.  
10 MR HAWA No, I do I have a copy  
11 right here in the response.  
12 MR SHOOK Maybe it's better that I  
13 don't use the admissions request copy.  
14 MR HAWA I have a copy right here.  
15 BY MR SHOOK  
16 Q All right. The letter that was sent  
17 by the FCC, which covers six pages, is dated  
18 November 1, 2002, it's addressed to the legal  
19 department of Business Options, Inc., and it  
20 bears the signature of -- oh, I know who it is --  
21 it's Curt Schroeder, and it's signed on behalf of

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1 Colleen Hidecamp.

2 A. Okay.

3 Q Now, with respect to this letter, my  
4 first question to you is, at what point in time  
5 do you recall becoming aware that this letter had  
6 been sent to Business Options?

7 I neglected to mention that with  
8 respect to the letter there were also two pages  
9 of names that were added on at the end, and they  
10 reference complaints that had been filed with the  
11 Maine Public Utilities Commission, and they  
12 include a series of names.

13 A. To answer your question, I believe it  
14 was probably early -- my first recollection is  
15 early part of December, because it's when I sat  
16 down and looked at this with Miss Dennie, and she  
17 wanted to respond to it. She asked me where to  
18 go to get the responses. So for each of the  
19 different numbers, I told you, "You go to this  
20 area of the company for this; you go to this area  
21 of the company for that."

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1 Q So Miss Dennie had brought this letter  
2 to your attention roughly a month after it was  
3 dated?

4 A. That is my recollection.

5 Q With respect to something that would  
6 have been sent by certified mail, as is reflected  
7 on the first page of the letter, what company  
8 procedure do you have or did you have about this  
9 time -- November of 2002 -- in terms of who would  
10 sign for such mail?

11 A. Our receptionist would sign for the  
12 mail and then deliver it to our regulatory  
13 people. For the last five years, it was always  
14 Mr. Brzycki, and then it was Miss Dennie.

15 Q All right So in terms of the letter  
16 being addressed to the legal department, in the  
17 first instance the letter would have been  
18 directed to Miss Denmie?

19 A. Yes. I said early December; it may  
20 have been early November if this letter was dated  
21 November 1. Yeah, I think she was hired at the

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1 end of October, so I think it was early to  
2 mid-November.

3 Q So this was a matter that, your  
4 recollection is, she brought to your attention?

5 A. Yes.

6 Q Then at the least, you had briefly  
7 discussed with her in terms of where to go in  
8 order to come up with the information to respond  
9 to the various requests?

10 A. Uh-huh. Like, for telemarketing  
11 scripts, here's where to go to get that.

12 Q Right. There were twelve different  
13 categories of information that were requested.  
14 And you and Miss Dennie discussed each of the  
15 twelve in terms of where she should go to get  
16 information?

17 A. That's my copy -- okay, here we go.  
18 Her notes are on numbers 4, 5, 6, 7, 10 and 11.  
19 So those I can say we discussed as to where she  
20 should go to get the information. And maybe 1, 2  
21 and 3 here.

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1 Q So the copy of the letter that you are  
2 looking at bears some notes that Miss Dennie had  
3 written on it.

4 A. Yeah. She would have taken those  
5 notes when she was asking me a question. Number  
6 4, for example, says, "Provide copies of all  
7 telemarketing -- blah, blah, blah." She writes,  
8 "Mike" -- who is our sales manager in that  
9 division five -- "for verification scripts," or  
10 something.

11 Q Now, in terms of the requirement for  
12 an affidavit or a declaration that appears on the  
13 signature page of the letter, was that something  
14 that you and Miss Dennie talked about?

15 A. I am not sure what you are referring  
16 to.

17 Q Well, the signature page -- oops, you  
18 just passed it. Go back to the signature page,  
19 and then look at the top of that page.

20 A. "Please provide a copy of" -- I don't  
21 recall discussing that with Miss Dennie.

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1 Q Did you discuss with Miss Dennie what  
2 review of her response, if any, there should be  
3 from you prior to this being sent to the Federal  
4 Communications Commission?

5 A. No. She did show me her responses.

6 Q So as far as that goes, let's look at  
7 what is labeled as Attachment M of our request  
8 for admissions, and that is a December 9, 2002  
9 letter directed to Mr. Wolfe, signed by Shannon  
10 Dennie, and then there a number of pages of  
11 attachments that follow.

12 A. Would that be it here?

13 MR HAWA Yes.

14 A. Okay. I don't have a cover letter to  
15 Mr. Wolfe, I don't think.

16 MR HAWA I don't think there was a  
17 cover letter.

18 Q Let me show you what I have.

19 A. Okay.

20 MR HAWA I do have it.

21 A. We do have it.

1 A. I don't want to speculate; I don't  
2 know. Can I see your copy?

3 MR HAWA Here, this is the  
4 attachment

5 WITNESS Okay

6 BY MR SHOOK

7 Q Did you just want to make sure we are  
8 looking at the same thing?

9 A. This has got the ownership incorrect  
10 again.

11 Q Okay So in terms of the ownership as  
12 of December, 2002, you were -- let me see if I am  
13 remembering this right -- 72 percent owner, and  
14 your brother was 26 percent?

15 A. Yes.

16 Q Okay So from what you have told me,  
17 I take it you have no explanation as to why it is  
18 that this information is erroneous

19 A. Well, my explanation would be that it  
20 did not give the proper significance to a request  
21 by the Federal Communications Commission. We did

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1 Q Now, with respect to the first  
2 sentence or the first request for information,  
3 basically it asks Business Operations, Inc. to  
4 describe its corporate structure, including a  
5 description of each subsidiary or affiliate  
6 identified, and also asks for a list of the  
7 officers and directors of each affiliated entity  
8 and to provide relevant documents. And the  
9 response that appears is that Business Options  
10 was incorporated in the State of Illinois on  
11 March 15, 1992, the company is privately held and  
12 does not own any property in any state. And it  
13 lists yourself and your brother Keanan as owners  
14 and as officers. And it also suggests or  
15 indicates that both of you were directors -- you  
16 being COB, which we understood to be chairman of  
17 the board, and then your brother is also noted as  
18 being a director. Do you have any knowledge as  
19 to how it was that Miss Dennie came to provide  
20 the information that appears here in Business  
21 Options response to number one?

1 not have the importance in mind when responding  
2 to this. I think I did see her responses, but I  
3 don't thing that I ever compared them to what was  
4 actually being requested. It says that Business  
5 Options, Inc. was incorporated in the State of  
6 Illinois, and that looked okay to me, so I don't  
7 know about not owning any property in any state.  
8 That's what it says.

9 Q Okay.

10 A. Number two, certificate of authority  
11 from the State of Illinois is attached. Well,  
12 okay, if you are just reading this document by  
13 itself, "Okay, great, it's attached." If you are  
14 comparing it to what is requested, then it's  
15 just -- well, certainly not what I would hope we  
16 would ever send in the future.

17 Q Right. Well, as far as that goes,  
18 request number two was asking for evidence that  
19 Business Options, Inc. had complied with the  
20 registration requirements pursuant to 47-- CFR.  
21 Section 67.1195 --

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1 A. Which I did not compare.

2 Q -- suggests that it is a federal  
3 requirement as opposed to something from the  
4 State of Illinois?

5 A. Right.

6 Q So I take it from what you are saying,  
7 then, is at the time that you looked at the  
8 responses that Miss Dennie had prepared, you did  
9 not compare that response with the incoming from  
10 the FCC to see whether or not the questions were  
11 actually answered.

12 A. Exactly.

13 Q Now, with respect to question number  
14 three, do you recall any discussion with Miss  
15 Dennie in terms of how it is that the answer that  
16 appears in Business Options' response was  
17 prepared and whether or not that answer was  
18 accurate?

19 A. Let me take a look here.

20 Q Sure.

21 MR HAWA While you are looking at

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1 those, I am not sure if this is something you  
2 want to respond to, but the question asks -- the  
3 long and short of it is, did you change preferred  
4 carrier as specified in the complaint and  
5 Attachment A? Well, in Attachment A, there are  
6 no complaints specifying anything. It's just a  
7 list of customers. How are you reading that?

8 MR SHOOK Well, I think a fair  
9 reading of it for, you know, purposes of  
10 discussion would be that with respect to the  
11 persons who are names there -- those 20 names --  
12 I didn't count them, but I would say roughly 20  
13 names -- had their phone service -- their  
14 long-distance phone service to those individuals  
15 changed after April 1 --

16 MR HAWA As specified in their  
17 complaint?

18 MR SHOOK -- after April 1, 2002, to  
19 Business Options?

20 MR HAWA You are saying that's a  
21 fair reading?

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1 MR. SHOOK I think so.

2 MR HAWA. But it says, "as specified  
3 in their complaint, did you change it." It  
4 doesn't say, "Did you change their carrier."

5 MR SHOOK Well, in terms of number  
6 three, number three is actually quite elaborate  
7 in terms of the --

8 MR HAWA Yeah, I understand.

9 MR SHOOK -- the question. And it  
10 breaks down a number of sub-parts, A through F.

11 MR HAWA I do ask that sincerely,  
12 because I don't understand your question. It's a  
13 list of customers, and it says, "Did you change  
14 the carrier as specified in the complaint and  
15 Attachment A." Attachment A doesn't specify  
16 being slammed.

17 MR SHOOK No, it doesn't have the  
18 complaints themselves. It simply indicates that  
19 complaints were filed by those individuals with  
20 the State of Maine.

21 MR HAWA So then a fair reading is,

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1 did you change their carrier, as specified in  
2 their complaint; meaning, did you slam them?

3 MR SHOOK Well, not even slam. Did  
4 you simply change their -- I mean, a slam is  
5 something that wouldn't necessarily -- that you  
6 couldn't necessarily determine without further  
7 information. The purpose of the question was  
8 simply to determine whether or not Business  
9 Options, Inc. would verify the fact that the  
10 long-distance service of those individuals was  
11 changed to Business Options, Inc. at some point  
12 after April 1, 2002?

13 MR HAWA I don't want to belabor the  
14 point, but wouldn't it then say, "Did you change  
15 the carrier of these customers" --

16 MR SHOOK I am not suggesting that  
17 the question couldn't have been worded in some  
18 different fashion. I am trying to give you what  
19 I think is a reading of that question.

20 MR HAWA Fair enough.

21 MR SHOOK In a way, it's all

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1 academic. Because the point is, at the time this  
2 letter was received by Business Options, what  
3 effort was made to answer the question as they  
4 understood it?

5 MR HAWA Okay.

6 WITNESS: I think that Miss Dennie  
7 did -- or we did have a brief discussion on this,  
8 and I think we read the question as, "Are you  
9 guilty of the complaints as they are filed?" And  
10 I think our response was, "No, we are not guilty  
11 of what they are saying we did."

12 BY MR SHOOK

13 Q Okay. And with the understanding,  
14 though, that you -- if I am reading this right  
15 and understanding all the back and forth that we  
16 have had here, you had not actually seen whatever  
17 complaints may have been filed by the 20  
18 individuals that were listed?

19 A. That would be correct. Nor did we, at  
20 least to my knowledge, go back and pull the  
21 customer's service information to determine when

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1 they were switched, whether they weren't  
2 switched. So I think we took this question as,  
3 "Are you guilty of doing what these customers are  
4 saying you are guilty of." Anyway, that's my  
5 recollection. Again, you can ask Miss Dennie.  
6 She was the one that offered that response.

7 Q Okay. But that would be without  
8 actually knowing what it was these people had  
9 really complained about

10 A. She may have look at it. I don't  
11 recall ever looking at those complaints.

12 Q All right. So these are things we  
13 would have to explore more in depth with her.

14 A. Yes.

15 Q But in terms of your involvement, in  
16 looking at what it was the FCC was asking for,  
17 basically I suppose first you can provide us with  
18 your own understanding of what you thought the  
19 FCC was asking for.

20 A. Right.

21 Q And then -- let me just focus on that

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1 first to make sure --

2 A. I don't think, at least as far as my  
3 participation, we were trying to be vague or  
4 evasive. I guess my thought on reading this was,  
5 you know, are you guilty of what these customers  
6 are saying that you did. And to that, I would  
7 say no, we are not. So during this period of  
8 time, that response would be logical with that  
9 line of thought.

10 The way we are looking at it today --  
11 if you are just asking, did we switch these  
12 customers. Well, yeah, now I have looked at the  
13 customer service on each of these -- not the ones  
14 from Maine, but the eight that you guys asked all  
15 those interrogatories about --

16 Q Right.

17 A. -- and we did switch their service  
18 during that time period. I believe it in April.

19 Q After April 1 of 2002.

20 A. Yeah. Again, this is hindsight, but  
21 we had been in business for merely ten or eleven

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1 years, I guess, at this point and just didn't  
2 have that much communication back and forth with  
3 the FCC, except for some informal complaints now  
4 and then. And Mr. Brzycki's department always  
5 sent off letters. And, I mean, there weren't  
6 that many of them, but I don't think that we've  
7 ever received anything like this from the FCC  
8 before. So this was something new for us, and  
9 the significance that was put on it was that of  
10 just an informal complaint. It wasn't, "Okay,  
11 here's this big document from the FCC. We need  
12 to huddle around and take a good look at this,  
13 and let's get off a great response, and let's get  
14 them whatever they want." It was more like,  
15 "Hey, we got this notice from the FCC. I better  
16 respond to it." And I said, "Okay, go ahead and  
17 you respond to it." And later, "Hey, Kurtis,  
18 here's what we are going to send to them."  
19 "Okay, it looks okay to me." That was the flow  
20 of it. It wasn't, "Wow, you know what -- we've  
21 got a situation here. What's going on here?"



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1 And again, I think that goes back to having a  
2 pretty clean record with the Commission over the  
3 past ten or eleven years and not having things  
4 like this come up. You know, we had the  
5 situation with Vermont, and it almost came  
6 across, I guess, as -- well, Vermont sent  
7 something off to the FCC, and the FCC is just  
8 following up on whatever the Vermont people had  
9 already done. It was almost like it was a done  
10 thing with Vermont, and the FCC was just  
11 following up with this. But, anyway, we learned  
12 a lesson, for sure.

13 Q Although, in this case, the  
14 complainants were all from the State of Maine.

15 A. Maine, okay.

16 Q I mean, I know they are close to each  
17 other, but --

18 A. Well, we were working with Maine,  
19 also.

20 Q All right. So the gist of your answer  
21 is that in terms of focusing on what it was the

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1 FCC was asking, you personally did not devote the  
2 kind of attention which in hindsight you wish you  
3 had?

4 A. Yes.

5 Q But in terms of actually answering the  
6 letter in the first instance, that was Shannon  
7 Dennie's responsibility?

8 A. Yes.

9 Q Now, was it the responsibility of  
10 anybody other than or in addition to Shannon  
11 Dennie?

12 A. Potentially, Miss Green may have been  
13 helping her with this.

14 Q But in terms of response to question  
15 number three and its various sub-parts, I take it  
16 from the conversations -- you know, the  
17 conversation that we had earlier today, that it  
18 would be fair to say that your answer to this  
19 question today would be decidedly different than  
20 what it was in December, 2002 -- that in fact the  
21 persons who are named here had their

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1 long-distance service changed after April 1,  
2 2002?

3 A. Well, specifically, the eight that we  
4 have been focused on. On the other ones, we  
5 would --

6 Q Right. Five of whom are common to  
7 this letter, and three of whom are from other  
8 states.

9 A. Okay. So we would investigate every  
10 one of these, and we would prepare a detailed  
11 response. If we ever send out another response  
12 like this, I will resign. So I don't know what  
13 else to tell you. It was inappropriate.

14 Q Okay. I think we have beaten question  
15 number three to death. With respect to question  
16 number four, that asks for telemarketing scripts.

17 A. Uh-huh.

18 Q And the response reflects  
19 telemarketing sales scripts along with  
20 instructions to telemarketers are attached.

21 A. Okay.

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1 Q And there appears to be something that  
2 reads -- or there is something that reads,  
3 rather, "Policy letter, Buzz Telecom," and then  
4 it has two dates; one being April 24, 2002, and  
5 then in bigger letters it has -- or in bigger  
6 font, rather, it has May 15, 2002, and then there  
7 is a capital "R" after that.

8 A. Uh-huh.

9 Q Are you looking at that page?

10 A. Yeah.

11 Q And it shows your name down at the  
12 bottom. It's not signed, but it shows your name,  
13 and underneath it has, "COB" The standard sales  
14 pitch, is this something that -- well, then there  
15 is a second page that follows, and then there are  
16 also two additional pages that follow after that  
17 deal with how to handle objections.

18 A. Yes.

19 Q The information that appears here --  
20 is that accurate and responsive as far as you  
21 understand it with respect to question number

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1 four? And take whatever time you need in order  
2 to answer that  
3 A. If I write something like that, I sign  
4 it or initial it down at the bottom. It looks  
5 like what I authored, but there should be a copy  
6 somewhere that's signed.  
7 Q Now, in terms of the next page, the  
8 one that has at the top, "Standard Sales  
9 Pitch" --  
10 A. Uh-huh.  
11 Q -- and again it has two dates; April  
12 24, 2002 and May 15, 2002 --  
13 A. Uh-huh.  
14 Q -- and then there is a smaller letter  
15 "R" after that. And then down at the bottom, it  
16 appears to bear the signature of Katrina Reillo?  
17 I mean, I don't know how you pronounce the last  
18 name.  
19 A. I don't know, either.  
20 Q R-E-I-L-L-O.  
21 A. Uh-huh.

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1 Q Director of sales training.  
2 A. Yes.  
3 Q First of all, who is Katrina?  
4 A. She was a sales rep for about a year  
5 for us and did a nice job and wanted to progress  
6 in the company and requested to be posted as  
7 director of sales training. And we promoted her  
8 up right about this period of time.  
9 Q How long did she hold that position?  
10 A. Probably -- I think she probably got  
11 promoted in the spring of 2002, so this would  
12 have been probably right around when she was  
13 promoted.  
14 Q Is she currently with the company?  
15 A. Yes.  
16 Q In what capacity is she with the  
17 company now?  
18 A. She does pretty much the same thing.  
19 Q She's still the director of sales  
20 training or something akin to that?  
21 A. Yes.

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1 Q This particular standard sales pitch,  
2 do you know who it was who actually wrote this?  
3 A. I think it was probably Katrina.  
4 Usually in the past, I wrote most of the sales  
5 pitches for our company.  
6 MR HAWA Can we go off the record  
7 for a second?  
8 MR. SHOOK Sure  
9 (Discussion was held off the record.)  
10 MR SHOOK Back on the record.  
11 BY MR SHOOK  
12 Q So the particular standard sales pitch  
13 that Katrina Reillo actually signed is something  
14 that you believe or you understand that she  
15 authored?  
16 A. Yes.  
17 Q Was this a sales pitch that anyone in  
18 a position above Katrina Reillo had to approve or  
19 did in fact approve?  
20 A. I would have had to approve this.  
21 Q And do you recall having done so?

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1 A. I think I did. I think I on wrote a  
2 pitch on April 24, 2002, and she revised it on  
3 this date and maybe put in a few more words or  
4 something.  
5 Q Was this sales pitch sent out by  
6 Business Options to any LEC for its review and/or  
7 approval?  
8 A. Not that I am aware of.  
9 Q The reason I asked that is you had  
10 indicated at earlier points in time that there  
11 were sales pitches that had occurred that you had  
12 sent out to LEC's --  
13 A. Yes.  
14 Q -- and that LEC's had in some  
15 instances even modified the sales pitch?  
16 A. Yes.  
17 Q But that did not occur with respect to  
18 this sales pitch?  
19 A. Not that I know of. That would have  
20 fallen under Mr. Brzycki's duties. And if  
21 wasn't, it should have been just as a matter of

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1 agreement with our billing companies.  
2 Q Oh. But it was part of the agreement  
3 with the billing company that if there was a  
4 change in the sales pitch, that it would be sent  
5 to the LEC's for their review?  
6 A. I don't know if that's a condition of  
7 the agreement or not. I did say that, but I  
8 don't recall seeing that in the agreement with  
9 USBI. It seems like if we sent them one -- now,  
10 this is opinion, not a statement of fact. But if  
11 we had to send one to get approval initially or  
12 updating, it should be sent.  
13 Q Okay. But as far as this sales pitch  
14 is concerned, it was not sent to anyone outside  
15 of the company?  
16 A. Correct.  
17 Q With respect to the response prepared  
18 for question five, if you could take a look at  
19 the question and then look at the response.  
20 A. Okay.  
21 Q My question is whether the response is

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1 accurate so far as you know.  
2 A. What is stated in response to number  
3 five is accurate, but I don't think it answers  
4 the question in full that was posed by the  
5 Commission. In 2002, at some point we did use an  
6 independent telemarketing company.  
7 Q In addition to your own employees?  
8 A. Yes. We didn't do that very long. I  
9 think it was toward the end of 2002 that we did  
10 that. So this would be missing information. It  
11 would be missing that we didn't send the  
12 telemarketing contracts.  
13 Q Or the organizational chart of the  
14 telemarketing operations?  
15 A. Right.  
16 Q Or the ratio of supervisors to  
17 telemarketing employees? Well, actually, it  
18 indicated there were 40 employees and three  
19 managers, so --  
20 A. Yeah.  
21 Q In other words, the information that

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1 appears here in response to number five is  
2 accurate as far as it goes, but there were  
3 additional pieces of information that should have  
4 been provided in order to make the response  
5 complete?  
6 A. Yes, it's incomplete.  
7 Q Okay With respect to question six,  
8 if you would look at the response, and then tell  
9 me whether or not the response is accurate.  
10 A. Again, I think we should have given  
11 you a couple pages in response, and we could have  
12 given you an example of what the tape auditor is  
13 looking for and what they write up and what's  
14 done with that. That's part of our process -- if  
15 somebody is doing something they shouldn't be  
16 doing, whether it be making personal phone calls  
17 or whatever it is that they are doing. So we  
18 gave you a one paragraph answer, and it could  
19 have probably been a two or three-page answer  
20 with attachments.  
21 Q So it would be fair to say that so far

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1 as you know, no one in Business Options, Inc.  
2 actually look at Section 258 of the Act or the  
3 rules that are referenced here in terms of  
4 framing the answer that was provided to us?  
5 A. Correct.  
6 Q Now, with respect to questions seven  
7 through eleven, there is a reference to a  
8 document prepared by Gene Chill. It's not  
9 signed, but is it your understanding that Mr.  
10 Chill in fact prepared this document?  
11 A. It is my understanding, yes.  
12 Q Would it be typical of him, you know,  
13 to indicate he is signing it "warmly?"  
14 A. You are going to have a nice time with  
15 him on -- what is it -- Wednesday or Thursday.  
16 Q We can gather from that that he has a  
17 sense of humor.  
18 A. Well, it's just Gene -- he's  
19 compassionate.  
20 Q Compassionate, okay.  
21 A. If you are asking if that was a joke,

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1 it wasn't a joke. That's just Gene.  
 2 Q Do you have any -- Did Mr. Chill speak  
 3 with you at all about the responses that he  
 4 prepared to questions seven through eleven?  
 5 A. No, I don't recall ever speaking to  
 6 Mr. Chill. Well, hold on --  
 7 Q It's getting toward the end of the  
 8 day; we understand.  
 9 A. Yeah. I do recall seeing this letter,  
 10 but I don't know if I saw it a month ago, two  
 11 months ago. I don't think I saw this letter  
 12 prior to it being sent to the Commission.  
 13 Q Sitting here right now, you don't have  
 14 a recollection of having reviewed this letter  
 15 with Mr. Chill prior to it being sent to the FCC?  
 16 A. No. Question number eight asks about  
 17 AT&T. We used to have that problem in the early  
 18 1990's or maybe mid 1990's. We actually, at one  
 19 point, had it in our sales scripts, "Do you  
 20 understand we are not AT&T?" But over the last  
 21 four or five years, it has really not come up,

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1 and I think that has to do with the  
 2 diversification of the industry. I think our  
 3 verification scripts say something about, "You  
 4 understand we are not your local phone company,  
 5 and we are not AT&T." I think it says that.  
 6 Q That takes us through questions seven  
 7 through eleven. So far as I can tell, question  
 8 twelve wasn't answered at all.  
 9 A. Um --  
 10 Q I have been advised by my co-counsel  
 11 that there was a separate letter that was sent  
 12 indicating that state complaints were going to be  
 13 sent by separate cover.  
 14 A. Okay.  
 15 Q Do you have any knowledge as to  
 16 whether in fact that was done?  
 17 A. No, I don't.  
 18 MR SHOOK Give us one minute.  
 19 (A short break was taken )  
 20 MR SHOOK Mr. Kintzel, I have no  
 21 further questions.

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1 WITNESS Thank you very much.  
 2 MR HAWA  
 3 (Reading and signing requested. )  
 4 (Deposition concluded 1:00 p.m.)  
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1 CERTIFICATE OF REPORTER/NOTARY PUBLIC  
 2 STATE OF INDIANA, to wit  
 3 I, DONNA J HANNAH, a Notary Public of  
 4 the State of Indiana, do hereby certify that the  
 5 within-named witness personally appeared before  
 6 me at the time and place herein set out, and  
 7 after having been duly sworn by me, according to  
 8 law, was examined by counsel  
 9 I further certify that the examination  
 10 was recorded stenographically by me and this  
 11 transcript is a true record of the proceedings  
 12 I further certify that I am not of  
 13 counsel to any of the parties, nor in any way  
 14 interested in the outcome of this action  
 15 As witness my hand and notarial seal  
 16 this 25th day of July, 2003  
 17  
 18 -----  
 19 Donna J Hannah  
 20 Notary Public  
 21 My Commission Expires 05-26-08

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